

face of the form. The Form BMC 91MX must show clearly whether the insurance is primary or, if excess coverage, the amount of underlying coverage as well as amount of the maximum limits of coverage.

(b) *Cargo Liability.* Each form B.M.C. 83 surety bond filed with the Commission must be for the full limits of liability required under § 387.303(c). Each Form B.M.C. 34 certificate of insurance filed with the Commission will represent the full security limits under § 387.303(c) or the specific security limits of coverage as indicated on the face of the form. If the filing reflects aggregation, the certificate must show clearly whether the insurance is primary or, if excess coverage, the amount of underlying coverage as well as amount of the maximum limits of coverage.

(c) Each policy of insurance in connection with the certificate of insurance which is filed with the Commission, shall be amended by attachment of the appropriate endorsement prescribed by the Commission or the Department of Transportation and the certificate of insurance filed must accurately reflect that endorsement.

[47 FR 55944, Dec. 14, 1982, as amended at 48 FR 43332, Sept. 23, 1983; 48 FR 51781, Nov. 14, 1983; 50 FR 40030, Oct. 1, 1985; 62 FR 49941, Sept. 24, 1997]

### § 387.313 Forms and procedures.

(a) *Forms for endorsements, certificates of insurance and others.* (1) *In form prescribed.* Endorsements for policies of insurance and surety bonds, certificates of insurance, applications to qualify as a self-insurer, or for approval of other securities or agreements, and notices of cancellation must be in the form prescribed and approved by the Commission.

(2) *Aggregation of Insurance.* \*\* When insurance is provided by more than one insurer in order to aggregate security limits for carriers operating only

freight vehicles under 10,000 pounds Gross Vehicle Weight Rating, as defined in § 387.303(b)(1), a separate *Form BMC 90*, with the specific amounts of underlying and limits of coverage shown thereon or appended thereto, and *Form BMC 91X* certificate is required of each insurer.

For aggregation of insurance for all other carriers to cover security limits under § 387.303 (b)(1) or (b)(2), a separate Department of Transportation prescribed form endorsement and *Form BMC 91X* certificate is required of each insurer. When insurance is provided by more than one insurer to aggregate coverage for security limits under § 387.303(c) a separate Form BMC 32 endorsement and Form BMC 34 certificate of insurance is required for each insurer.

For aggregation of insurance for foreign motor private carriers of non-hazardous commodities to cover security limits under § 387.303(b)(4), a separate Form BMC 90 with the specific amounts of underlying and limits of coverage shown thereon or appended thereto, or Department of Transportation prescribed form endorsement, and Form BMC 91MX certificate is required for each insurer.

(3) *Use of Certificates and Endorsements in BMC Series.* *Form BMC 91* certificates of insurance will be filed with the Commission for the full security limits under § 387.303 (b)(1) or (b)(2).

*Form BMC 91X* certificate of insurance will be filed to represent full coverage or any level of aggregation for the security limits under § 387.303 (b)(1) or (b)(2).

*Form BMC 90* endorsement will be used with each filing of *Form BMC 91* or *Form 91X* certificate with the Commission which certifies to coverage not governed by the requirements of the Department of Transportation. *Form BMC 32* endorsement and *Form BMC 34* certificate of insurance and *Form BMC 83* surety bonds are used for the limits of cargo liability under § 1043.2(c).

*Form BMC 91MX* certificate of insurance will be filed to represent any level of aggregation for the security limits under § 387.303(b)(4).

(4) *Use of Endorsements in MCS Series.* When Security limits certified under

\*\*NOTE: See NOTE for Rule 387.311. Also, it should be noted that DOT is considering prescribing adaptations of the Form MCS 90 endorsement and the Form MCS 82 surety bond for use by passenger carriers and Rules §§ 387.311 and 387.313 have been written sufficiently broad to provide for this contingency when new forms are prescribed by that Agency.

§ 387.303 (b)(1) or (b)(2) involves coverage also required by the Department of Transportation a *Form MCS endorsement* prescribed by the Department of Transportation such as, and including, the *Form MCS 90* endorsement is required.

(5) *Surety bonds*. When surety bonds are used rather than certificates of insurance, *Form BMC 82* is required for the security limits under § 1043.2(b)(1) not subject to regulation by the Department of Transportation, and *Form MCS 82*, or any form of similar import prescribed by the Department of Transportation, is used for the security limits subject also to minimum coverage requirements of the Department of Transportation.

(6) *Surety bonds and certificates in effect continuously*. Surety bonds and certificates of insurance shall specify that coverage thereunder will remain in effect continuously until terminated as herein provided, except: (1) When filed expressly to fill prior gaps or lapses in coverage or to cover grants of emergency temporary authority of unusually short duration and the filing clearly so indicates, or (2) in special or unusual circumstances, when special permission is obtained for filing certificates of insurance or surety bonds on terms meeting other particular needs of the situation.

(b) *Filing and copies*. Certificates of insurance, surety bonds, and notices of cancellation must be filed with the Commission in triplicate.

(c) *Name of insured*. Certificates of insurance and surety bonds shall be issued in the full and correct name of the individual, partnership, corporation or other person to whom the certificate, permit, or license is, or is to be, issued. In the case of a partnership, all partners shall be named.

(d) *Cancellation notice*. Except as provided in paragraph (e) of this section, surety bonds, certificates of insurance and other securities or agreements shall not be cancelled or withdrawn until 30 days after written notice has been submitted to the Commission at its offices in Washington, DC, on the prescribed form (Form BMC-35, Notice of Cancellation Motor Carrier Policies of Insurance under 49 U.S.C. 13906, and BMC-36, Notice of Cancellation Motor

Carrier and Broker Surety Bonds, as appropriate) by the insurance company, surety or sureties, motor carrier, broker or other party thereto, as the case may be, which period of thirty (30) days shall commence to run from the date such notice on the prescribed form is actually received by the Commission.

(e) *Termination by replacement*. Certificates of insurance or surety bonds which have been accepted by the Commission under these rules may be replaced by other certificates of insurance, surety bonds or other security, and the liability of the retiring insurer or surety under such certificates of insurance or surety bonds shall be considered as having terminated as of the effective date of the replacement certificate of insurance, surety bond or other security, provided the said replacement certificate, bond or other security is acceptable to the Commission under the rules and regulations in this part.

CROSS REFERENCE: For list of forms prescribed, see § 1003.1(b) of this chapter.

[47 FR 55944, Dec. 14, 1982, as amended at 48 FR 43334, Sept. 23, 1983; 48 FR 51781, Nov. 14, 1983; 50 FR 40030, Oct. 1, 1985; 51 FR 34623, Sept. 30, 1986; 62 FR 49941, Sept. 24, 1997]

#### § 387.315 Insurance and surety companies.

A certificate of insurance or surety bond will not be accepted by the Commission unless issued by an insurance or surety company that is authorized (licensed or admitted) to issue bonds or underlying insurance policies:

(a) In each state in which the motor carrier is authorized by the Commission to operate, or

(b) In the state in which the motor carrier has its principal place of business or domicile, and will designate in writing upon request by the Commission, a person upon whom process, issued by or under the authority of a court of competent jurisdiction, may be served in any proceeding at law or equity brought in any state in which the carrier operates, or

(c) In any state, and is eligible as an excess or surplus lines insurer in any state in which business is written, and will make the designation of process